

§ 8.07

reason to extend it beyond such period. If for any reason the enforcement staff closes an investigation before determining whether a reasonable basis exists for finding that a violation has occurred, the staff shall fully set forth the reasons for so closing the investigation in its report.

§ 8.07 Investigation reports.

(a) The enforcement staff shall submit a written investigation report to the disciplinary committee of the exchange in every instance in which the enforcement staff has determined from surveillance or from an investigation that a reasonable basis exists for finding a violation. The investigation report shall include the reason the investigation was initiated, a summary of the complaint, if any, the relevant facts, the enforcement staff's conclusions and a recommendation as to whether the disciplinary committee should proceed with the matter.

(b) If after conducting an investigation the enforcement staff has determined that no reasonable basis exists for finding a violation, it shall prepare a written report including the reason the investigation was initiated, a summary of the complaint, if any, the relevant facts, the enforcement staff's conclusions and, if applicable, any recommendation that the disciplinary committee issue a warning letter in accordance with paragraph (c) of this section. The report shall become part of the investigation file which thereafter may be closed.

(c) In addition to the action required to be taken under either paragraph (a) or (b) of this section, the rules of an exchange may authorize the enforcement staff to issue a warning letter to a person under investigation or to recommend that the disciplinary committee issue such a letter. A warning letter issued in accordance with this section is not a penalty or an indication that a finding of a violation has been made. A copy of such warning letter issued by the enforcement staff shall be included in the investigation

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report required by paragraph (a) or (b) of this section.

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§ 8.08 Disciplinary committee.

Each exchange shall establish one or more disciplinary committees which shall be authorized by the exchange to determine whether violations have been committed, to accept offers of settlement and to set and impose appropriate penalties. Each such disciplinary committee shall consist of one or more members of the exchange or persons on the staff of the exchange; however, persons on the enforcement staff may not serve on a disciplinary committee.

§ 8.09 Review of investigation report.

The disciplinary committee shall promptly review each investigation report. In the event the disciplinary committee determines that additional investigation or evidence is needed, it shall promptly direct the enforcement staff to conduct its investigation further. Within a reasonable period of time not to exceed 30 days after the receipt of a completed investigation report, the disciplinary committee shall take one of the following actions:

(a) If the disciplinary committee determines that no reasonable basis exists for finding a violation or that prosecution is otherwise unwarranted, it may direct that no further action be taken. Such determination must be in writing and contain a brief statement setting forth the reasons therefor.

(b) If the disciplinary committee determines that a reasonable basis exists for finding a violation which should be adjudicated, it shall direct that the person alleged to have committed the violation be served with a notice of charges and shall proceed in accordance with the rules of this subpart.

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